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10 Attorneys for Plaintiff
11 DIAMOND STATE INSURANCE COMPANY

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO/OAKLAND DIVISION

15 DIAMOND STATE INSURANCE
16 COMPANY, *an Indiana corporation*,

17 Plaintiff,

18 v.

19 MARIN MOUNTAIN BIKES, INC., *a*
20 *California corporation: et al.*,

21 Defendants.

22 AND RELATED COUNTERCLAIMS.

No. 4:11-CV-05193-CW

STIPULATION AND ORDER TO
FURTHER CONTINUE PRE-TRIAL
DEADLINES AND TRIAL

1 WHEREAS, plaintiff/counterdefendant Diamond State Insurance Company
2 commenced this insurance coverage action on October 24, 2011,

3 WHEREAS, during the case management conference on May 2, 2012, the
4 Court set an original trial date of January 14, 2013, as well as various pre-trial
5 deadlines.

6 WHEREAS, defendant/counterclaimant Marin Mountain Bikes filed an
7 answer and counterclaims against Diamond State on May 16, 2012,

8 WHEREAS, Diamond State filed a motion to strike Marin's original
9 affirmative defenses and to dismiss Marin's original counterclaims (and for a more
10 definite statement) on June 11, 2012,

11 WHEREAS, Marin responded to Diamond State's motion by filing amended
12 counterclaims on July 2, 2012, and requesting leave to file amended affirmative
13 defenses, including a new affirmative defense of laches

14 WHEREAS, Diamond State filed a reply brief supporting its motion to strike
15 the original affirmative defenses, arguing that Marin's proposed amended
16 affirmative defenses were defective and violate FRCP 8(b) and 9(b),

17 WHEREAS, Diamond State filed a motion to dismiss Marin's amended
18 counterclaims on July 25, 2012,

19 WHEREAS, in an order dated September 10, 2012, the Court granted Marin
20 leave to file its amended affirmative defenses, ordered that Diamond State's reply
21 brief concerning the motion to strike the original affirmative defenses be treated as
22 a motion to strike the amended affirmative defenses, and set further briefing
23 deadlines,

24 WHEREAS, the order dated September 10, 2012, granted Diamond State's
25 motion to dismiss Marin's amended counterclaims for breach of contract, breach of
26 the implied covenant of good faith and fair dealing, and fraud, but also granted
27 Marin leave to amend each of those counterclaims,

28 WHEREAS, Marin filed its second amended counterclaims on September

1 18, 2012, again asserting claims for breach of contract, breach of the implied
2 covenant of good faith and fair dealing and fraud,

3 WHEREAS, Diamond filed a motion to dismiss the second amended
4 counterclaims on October 21, 2012,

5 WHEREAS, the court issued an order on December 21, 2012, granting
6 Diamond's motion to dismiss the second amended counterclaims without leave to
7 amend,

8 WHEREAS, the court's order of December 21, 2012, granted Diamond's
9 motion to strike Marin's first two affirmative defenses (estoppel and unclean
10 hands), but denied the motion to strike Marin's third affirmative defense of laches,

11 WHEREAS the court previously ordered (per stipulation of the parties) that
12 the original trial date and original pre-trial deadlines be continued and extended by
13 120 days,

14 WHEREAS, the current deadline for: (1) completion of fact discovery is
15 1/29/13, (2) disclosure of identities and reports of expert witnesses is 2/13/12, (3)
16 completion of expert discovery is 3/15/13, (4) hearing of any dispositive motion is
17 2/7/13, (4) final pre-trial conference is 5/8/13, (5) trial is 5/14/13 or as soon
18 thereafter as the court is available,

19 WHEREAS, the parties agree that the above deadlines should be extended an
20 additional 90 days to allow sufficient time to address the issues remaining in the
21 case,

22 Plaintiff/Cross-defendant Diamond State Insurance Company and
23 Defendant/Cross-complainant Marin Mountain Bikes, Inc. hereby stipulate and
24 request that the Court order that the trial date and pre-trial deadlines be continued
25 and extended by an additional 90 days as follows:

26
27 Completion of Fact Discovery:

Extended from 1/29/13 to 4/29/13

1	Disclosures of Identities and Reports of	Extended from 2/13/13 to 5/13/13
2	Expert Witnesses	
3	Completion of Expert Discovery	Extended from 3/15/13 to 6/17/13
4	All case dispositive motions to be heard	Extended from 2/7/13 to 5/7/13
5	at 2:00 p.m. on or before:	
6	Final pre-trial conference:	Extended from 5/8/13 to 8/8/13
7	Jury trial	Extended from 5/13/13 to 8/13/13

8
9
10 IT IS SO STIPULATED,

11
12 Dated: December __, 2012 NIELSEN HALEY & ABBOTT, LLP

13
14 By: _____
15 Jennifer S. Cohn
16 Attorneys for Plaintiff/Cross-defendant
Diamond State Insurance Company

17
18 Dated: December __, 2012 DONAHUE GALLAGHER WOODS LLP

19
20 By: _____
21 Casey L. Williams
22 Attorneys for Defendant/Cross-complainant
Marin Mountain Bikes, Inc.

23
24 PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED **except the**
25 **dispositive motion/further case management conference will be held on**
26 **5/9/2013 at 2:00 p.m.; the pretrial conference will be held on 8/7/2013 at 2:00**
27 **p.m.; and the jury trial will begin on 8/19/2013 at 8:30 a.m.**
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1 Dated: December 28, 2012



Hon. Claudia Wilken

United States District Court Judge

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